

# ***NEW YORK STATE OFFICE OF THE STATE COMPTROLLER***

---

**H. Carl McCall  
STATE COMPTROLLER**



***NEW YORK STATE BOARD OF ELECTIONS  
COMPLIANCE WITH THE NATIONAL VOTER  
REGISTRATION ACT - REGISTRATION  
PROCESS***

***2001-S-24***

---

**DIVISION OF MANAGEMENT AUDIT AND  
STATE FINANCIAL SERVICES**

OSC Management Audit reports can be accessed via the OSC Web Page:

<http://www.osc.state.ny.us>

If you wish your name to be deleted from our mailing list or if your address has

changed,

contact the Management Audit Group at (518) 474-3271

or at the

Office of the State Comptroller

110 State Street

11<sup>th</sup> Floor

Albany, NY 12236



**H. Carl McCall**  
**STATE COMPTROLLER**

**Report 2001-S-24**

Mr. Thomas R. Wilkey  
Executive Director  
New York State Board of Elections  
40 Steuben Street  
Albany, NY 12207-2109

Dear Mr. Wilkey:

The following is a report of our audit of the program administered by the New York State Board of Elections for compliance with the National Voter Registration Act of 1993 by New York State agencies.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, and Article II, Section 8 of the State Finance Law. Major contributors to this audit report are listed in Appendix A.

*Office of the State Comptroller*  
*Division of Management Audit*  
*and State Financial Services*

December 4, 2002

---

***Division of Management Audit and State Financial Services***

110 STATE STREET ♦ ALBANY, NEW YORK 12236  
123 WILLIAM STREET ♦ NEW YORK, NEW YORK 10038

---

---

## **EXECUTIVE SUMMARY**

### **NEW YORK STATE BOARD OF ELECTIONS COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT – REGISTRATION PROCESS**

---

---

#### **SCOPE OF AUDIT**

The National Voter Registration Act of 1993 (NVRA) became effective on January 1, 1995. Its primary objective is to increase the opportunities for eligible citizens to register to vote and participate in Federal elections. NVRA focuses on agency-based voter registration at motor vehicle offices and state agencies primarily engaged in providing public assistance and services to persons with disabilities, as well as efforts to register voters by mail. It also allows each state to designate additional agencies as voter registration offices.

The New York State Board of Elections (Board) is responsible for issuing instructions and promulgating rules and regulations relating to the administration of the election process. The Board's NVRA functions include coordinating and monitoring the distribution of voter registration forms, promotional materials, and other public information, as well as training agency employees. The Board is also responsible for adopting rules and regulations, assisting designated agencies, and compiling statistics from agencies and county election boards, as required by the Federal Election Commission.

For the period of January 1, 2000 through August 31, 2001, our audit addressed the following questions:

- Do designated State agencies and county election boards process agency-based voter registration applications in compliance with NVRA requirements?
- Does the State Board of Elections monitor the compliance of designated State agencies and county election boards with NVRA requirements?

---

---

#### **AUDIT OBSERVATIONS AND CONCLUSIONS**

We found that the Department of Motor Vehicles (DMV) was in compliance with the NVRA; but that the Department of Labor (DOL), the Division of Veterans' Affairs (VA), and the Workers' Compensation Board (WCB) were not in

compliance with all of the provisions we reviewed. For example, two of the DOL sites lacked evidence that all customers were being given the opportunity to register. In some cases, the sites we visited were not taking advantage of the agency's computer system to accomplish their voter-registration mission. Data entry errors have presented problems for some sites, and the transmittal process for passing registration forms along to the Board is either inadequate or is not always followed properly. (See pp. 7-10)

We also found the customer's registration intentions are sometimes misinterpreted or entered incorrectly into the DMV computer system. In other cases, voters believed that they changed their voter registration address when they updated their driver's license address. But updating the driver's license address does not change the voter registration address unless the new address is in the same county or within the City of New York. To correct this situation, we recommended that the DMV change of address card should be revised to allow customers to register to vote in the same transaction. We also recommended that the Board develop a process for notifying agencies when the registration forms submitted are incomplete so that they can inform the applicant, and to remind the county election boards they should report to the Board those agencies who do not submit registration applications within the required time frame. (See pp. 13-30)

On Election Day, individuals whose names do not appear on the list of registered voters for the location where they reside, but would like to cast their vote by using the voting machine instead of an affidavit ballot, can obtain a court order from a judge. We found that judges do not always verify the customers' voter registration complaints where DMV was the agency that received the agency-based registration form for processing. We believe the Board should work with the Office of Court Administration to develop a system that reports and investigates the justification for court orders issued on Election Day. The Board should also be performing routine monitoring visits at agency and county sites where registration and voting activities take place and pursuing funding for reviews of designated agencies and county boards of elections in terms of compliance with NVRA requirements. (See pp. 31-38)

---

## ***COMMENTS OF BOARD AND PARTICIPATING AGENCIES OFFICIALS***

**A** draft copy of this report was provided to officials of the New York State Board of Elections for their review and comment. We also held an exit conference with them to discuss the issues in this report. In addition, each of the four designated agencies where we made compliance-assessment visits was provided a copy of the draft report section for their review and comment. The comments from the State Board of Election, the Departments of Motor Vehicles and Labor, the Division of Veterans' Affairs and the Workers' Compensation Board have been considered in preparing this final report, and are included as Appendix B.

In response to the draft report, the Board's position was that the NVRA program is functioning properly as indicated by the statistics on the number of people offered the opportunity to register to vote or change their registration data while applying for services at agencies participating in the program. Regarding the recommendations, the Board indicated that it would take some actions, but for most of them Board officials indicated the county board is responsible or it was not required by law or their regulations to take action.

We acknowledge that the statistics collected by the Board regarding the agency-based voter registration activity indicates that the program has resulted in providing the opportunity to vote to many as shown by the table on page 2 of our report. However, the audit results show that management at both the Board and at the participating agencies can take corrective action to improve the NVRA program. For example, we observed that the informational brochures were not always on display, as required. In addition, there was no process for determining whether all of the agency-based voter registration forms received by the participating agencies were properly handled.

# CONTENTS

---

## ***Introduction***

---

Background	1
Audit Scope, Objectives and Methodology	3
Comments of Board and Participating Agencies Officials to Audit	5

## ***Agency Compliance***

---

Department of Motor Vehicles	7
Department of Labor	7
Division of Veterans' Affairs	8
Workers' Compensation Board	9
Recommendation	10

## ***Accounting for Registration Applications***

---

Data Accuracy	13
Lost or Improperly Reported Registration Applications	15
Recommendations	17

## ***Department of Motor Vehicles Applications***

---

Recommendation	22
----------------	----

## ***Change of Address***

---

Recommendation	25
----------------	----

## ***Registration Applications***

---

Recommendations	28
-----------------	----

## ***Timely Submittal of Registration Applications***

---

Recommendation	30
----------------	----

## ***Complaint Data***

---

Recommendations	35
-----------------	----

***Monitoring Compliance with NVRA Requirements*** 37

---

Recommendation 38

***Exhibit A***

---

Listing of the 15 State Agencies Designated to Implement NVRA

***Exhibit B***

---

Voter Registration Sections from the Application for Driver License or Non-Driver ID Card (Form MV-44)

***Appendix A***

---

Major Contributors to This Report

***Appendix B***

---

Response of Board and Participating Agencies Officials

***Appendix C***

---

State Comptroller's Notes

---

# INTRODUCTION

---

## Background

The National Voter Registration Act of 1993 (NVRA) became effective on January 1, 1995. Its primary objective is to increase the opportunities for eligible citizens to register to vote and participate in Federal elections. NVRA focuses on agency-based voter registration at motor vehicle offices and at state agencies primarily engaged in providing public assistance and services to persons with disabilities, as well as efforts to register voters by mail. It also allows each state to designate additional agencies as voter registration offices.

NVRA's agency-based registration component requires that individuals be given the opportunity to register to vote or change their registration data at locations where services are applied for. Designated agencies are responsible for prominently displaying promotional materials informing the public that voter registration services are available at that location. They are also responsible for the timely submission of completed registration applications to county election boards (county boards), the retention of specified information and statistics, the maintenance of confidentiality of the data, the training of personnel, the development of agency-specific procedures for ensuring compliance, assistance to prospective voters in the completion of registration applications, and the designation of an overall program coordinator as well as site coordinators.

New York State (State) legislation amending the State's Election Law to implement and comply with NVRA also became effective on January 1, 1995. It designates 15 State agencies, with a total of approximately 1,900 Statewide sites, for participation in NVRA activities. The agencies are listed in Exhibit A of this report. In addition, the State University of New York (SUNY) and City University of New York (CUNY) are required to provide each student with a voter registration application at the beginning of each school year, and again in January of each Presidential election year.

The New York State Board of Elections (Board) is responsible for issuing instructions and promulgating rules and regulations relating to the administration of the election process. The

Board's NVRA functions include coordinating and monitoring the distribution of voter registration forms, promotional materials, and other public information, as well as training agency employees. The Board is also responsible for adopting rules and regulations, assisting designated agencies, and compiling statistics from agencies and county election boards, as required by the Federal Election Commission.

Based on 2000 Census projections, New York State has an estimated voting age population of 13.8 million individuals. (This population includes some State residents who are not eligible to vote, such as resident aliens and convicted felons.) Of the 11.3 million individuals registered to vote in the State as of November 1, 2000, almost 7 million (61.8 percent) voted during the 2000 General Election. Between January 1, 1995 and December 31, 2000, State agencies reported 3,581,660 agency-based NVRA-related transactions. Reports from the State's 62 counties accounted for all but 46,787 of these, as broken down in the following table:

<b>Transaction Type</b>	<b>Number of Transactions</b>
New Registrations	1,572,751
Address Changes	800,622
Enrollment Changes	192,013
Name Changes	47,132
Duplicate Registration Applications	541,017
Incomplete Registration Applications	330,711
Registration Applications Forwarded to Other Counties	50,627
Registration Applications Not Accounted For	46,787
<b>Total Agency-Based NVRA Transactions</b>	<b>3,581,660</b>

In November 1996, the U. S. Attorney General's Office filed suit against the Board, and 13 State agencies, challenging the manner in which the State had implemented the NVRA. This suit did not involve the Department of Motor Vehicles (DMV) or the Department of Labor (DOL). Nine of the 13 agencies reached settlements of this suit. However, as of August 31, 2001, four agencies and the Board were still in litigation. See Exhibit A for the settlement status of each agency. (The Board's 2001 Annual Report to the Governor and Legislature indicates that settlements have been reached in all but three agencies.)

During the 2000 General Election, numerous people and some county election officials complained that a significant number of residents could not vote because the registration applications they had filed with one of the designated agencies had not been transferred to the county election boards. The League of Women Voters (League) also complained that it received hundreds of telephone calls from individuals who said they completed the registration application at DMV but were unable to vote because their names did not appear on the list of registered voters. However, when asked, the League could not document the actual number of complaints received, and we were advised the League did not submit an official complaint to the Board. Board officials told us that no county election officials had complained to them that registration applications had not been transferred to the county boards, and that the Board itself had not received many complaints from individuals on that Election Day.

---

### ***Audit Scope, Objectives and Methodology***

We audited the State's compliance with the NVRA, as well as its implementation of related sections of the New York State Election Law for the period of January 1, 2000 through August 31, 2001. We sought to determine whether the designated State agencies had properly obtained and forwarded voter registration applications to the county election boards and whether the county boards processed these applications properly. We also determined whether the Board monitored the compliance of the designated State agencies and county boards with NVRA requirements. We limited our audit to the Departments of Motor Vehicles and Labor which were not included in the litigation and to the seven agencies that, as of June 1, 2001, were not involved in NVRA-related compliance litigation with the U. S. Attorney General's Office. We also excluded SUNY and CUNY from our audit. To accomplish our objectives, we reviewed laws, rules, and regulations, as well as those policies and procedures established to implement NVRA. To determine the current level of compliance of the agencies and counties with the Election Law, we:

- met with Board officials and designated program officials for the nine designated agencies, and reviewed Board records and program statistics;

- met with officials at the election boards of eight counties (Erie, Saratoga, Suffolk, Nassau, Queens, Kings, Bronx, and New York) where the majority (6,789,540) of the State's voters were registered and where the most voter complaints were reported by news articles, the League of Women Voters, and the New York City Board of Elections (City Board); and reviewed their policies and procedures for processing voter registration applications and reporting the results to the Board;
- conducted compliance-assessment visits to sites where NVRA activity was the highest (Department of Motor Vehicles and Department of Labor), the lowest (Division of Veterans' Affairs) and moderate (Workers' Compensation Board); and
- reviewed complaint data and procedures for handling complaints related to registration activities at designated agencies.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations that are within our scope. Further, these standards require that we understand the internal control structure and compliance with those laws, rules and regulations that are relevant to our audit scope. An audit includes examining on a test basis evidence supporting transactions in the accounting and operating records and applying such other procedures we consider necessary in the circumstances. An audit also includes assessing the estimates, decisions and judgments made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities for audit. We therefore focus our efforts on those activities we have identified as having the greatest potential for needing improvement. Consequently, by design, we use finite audit resources to identify where and how improvements can be made. We devote little audit effort to reviewing operations that may be relatively efficient and effective. As a result, we prepare our audit reports on "an exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

---

---

## ***Comments of Board Officials to Audit***

A draft copy of this audit report was provided to officials of the New York State Board of Elections for their review and comment. We also held an exit conference with Board officials to provide them an opportunity to comment on the issues in this report. In addition, each of the four designated agencies where we made compliance-assessment visits and reviewed their records and procedures for processing voter registration forms was provided a copy of the draft report section for their review and comment. Their comments were considered in preparing this final report, and are included as Appendix B.

The Board's response indicated that they consider the NVRA program a success that has reported very significant statistics on the number of people provided the opportunity to register to vote at participating agencies. They indicated that action have been taken or are planned to implement some of the recommendations.

The Department of Labor and the Division of Veterans' Affairs replied that they did not agree with the audit conclusion that they were not in compliance with the NVRA regulations reviewed, and, as such did not indicate they would take any action to address the areas in need of improvement.

The WCB reply indicated that they have changed certain procedures to bring them into compliance. DMV officials replied that it has taken action to improve its process for handling voter registration forms. They added that the audit overstated the statistics regarding error rates for the processing of voter registration forms.

While we acknowledge that the NVRA program has provided many people the opportunity to register to vote at participating agencies, our audit does identify areas in need of improvement even at agencies that consider themselves to be in compliance with NVRA.

To help ensure our consideration of the Corporation's comments is clear, we respond to those comments in the State Comptroller's Notes, Appendix C. Where appropriate, we have made changes to the report to recognize factual information conveyed in the response.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Executive Director of the New York State Board of Elections shall report to the Governor, the State Comptroller and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

---

## AGENCY COMPLIANCE

---

Detailed testing of NVRA activities was done at four of the nine agencies we visited to determine whether they had established policies and procedures that provide reasonable assurance they would be in compliance with NVRA requirements. We did not perform detailed testing of the policies and procedures at the other five agencies to verify that they were functioning as described. At the four where we did testing, we found that just one of the four (DMV) was in compliance with the NVRA. The other three agencies were not in compliance with the provisions we reviewed.

---

### *Department of Motor Vehicles*

We visited 11 DMV sites, selected on the basis of a State Board report showing deviations between the applications transmitted by the sites and those processed by the counties. These 11 sites accounted for 110 of the 1,838 deviations in the eight counties. We found that all of them were in compliance with NVRA provisions, although improvements could be made to reduce processing errors. These errors, which had prevented the customers' applications from being transmitted to the county boards, are discussed in a subsequent report section entitled "Department of Motor Vehicles Applications."

---

### *Department of Labor*

We visited three DOL sites, selected on the basis of a State Board report that shows the date the last transmittal was received from each agency site. We looked at those sites with a last transmittal date prior to April 2001 (two months prior to our audit work) DOL had nine sites with a last transmittal date prior to April 2001 and one site with an erroneous date. We judgmentally selected one site with an old transmittal date, one site with an erroneous date, and one site that was timely. Two of the three sites lacked evidence that all customers were being given the opportunity to register. Neither of the two sites were reporting the number of declinations received, but one began to do so in August 2001. We found evidence at the third DOL site

that customers were given the opportunity to register. However, none of the three sites used DOL's computer system to generate a transmittal document that would indicate how many customers should have been invited to register. Site officials told us the computer system does not have a report feature that would allow them to generate such a document. Therefore, the agency has less assurance that all customers are given the opportunity to register. In addition, two of the sites did not display the required promotional materials informing the public that voter registration services were available.

---

---

### ***Division of Veterans' Affairs***

Using a Board report that shows the date the last transmittal was received from each agency site we selected three sites to visit. We looked for sites with a last transmittal date prior to April 2001 (two months prior to our audit work) and found that the VA had 34 sites. We judgmentally selected 3 of the 34 sites that had the oldest transmittal dates and were located in the eight counties visited. The three VA sites visited were not in compliance with NVRA. In March 2000, VA management directed its site-based staff to treat the submission of transmittal forms to the county board as optional, so they stopped preparing them. In addition, although site personnel were asking customers whether they wanted to register, they were not making agency-based registration applications available. Nor were they collecting completed applications and transmitting them to the county board, as required by law. Instead, they provided the customer with a mail-in form, which the individual was supposed to mail to the county board. One of the VA sites began to distribute the required agency-based registration form, collecting the completed applications and transmitting them to the county board. In May 2001, all VA sites were directed to begin submitting such transmittals. Between March 2000 and May 2001, none of the sites had submitted transmittals that would indicate how many people were given a mail-in form and how many had declined to register. In addition, none of the three sites uses the VA's computer system, which would indicate the total number of customers and the registration intentions of each applicant, to create the transmittal forms. VA officials told us their computer system is currently not able to provide this type of data. As a result, there is less assurance that all of their customers are given the opportunity to register.

(Responding to the draft report, the Division of Veterans' Affairs indicated that based on the consent decree entered into in settlement of the United States lawsuit provides that the Division not be held to numerical standards in reporting NVRA activity. They also indicate that the Division will not include the registration intentions of each applicant on the intake forms or software citing the consent decree that does not require the Division to count NVRA activity.

Auditors' Comment: It is difficult to understand the Division's opposition to recording the registration intention on a form and on the system because in the absence of any record there is less assurance the applicant was provided an opportunity to register to vote. The fact that the information is collected does not automatically result in the counting of NVRA activity. Other agencies whose customers are of a "repeat" nature do provide forms that record the registration intent. In addition, the audit report reflects the information provided to the auditors and is not our interpretation. However, as indicated in the report, customers were asked if they wanted to register and were given a form to mail in. Perhaps, as a courtesy to its customers, Division staff could have mailed in the completed forms.)

---

### ***Workers' Compensation Board***

**W**e visited 3 of the 11 WCB-operated district offices (Albany, Brooklyn and Queens). We selected the Albany office so that procedures could be reviewed in conjunction with a meeting with WCB officials related to NVRA procedures; the Brooklyn office was selected because until June 2001 it was the only district office in New York City. In June 2001, the Brooklyn office was split into two additional offices located in Manhattan and Queens. We randomly selected the Queens office. We found that they were providing voter registration opportunities to claimants. However, they did not have a system that would ensure that all voter registration activity is reported to the State Board. WCB officials told us that, although they do have a system for scheduling claimants for hearings, the same person might appear at several hearings in the same day or might not show up at all. According to the officials, determining the number of different claimants who actually appear each day would require a labor-intensive review of hearing records. Therefore, the WCB has less assurance that the number of claimants offered the opportunity to register to vote is reported properly. Officials at one office said that they schedule about

320 claimants a day for hearings and may have a 20 – 30 percent no-show rate. As a result, that office may actually hear 224 cases per day -- some for the same claimant. However, this level of activity is not reported on the transmittal forms that are forwarded to the Board. For example, no activity was reported at all on one transmittal form that covered a one-week period. On another transmittal form, also covering one week, activity related to just 47 claimants was reported.

We also reviewed 20 voter registration applications that had been collected at the three sites. Two of the sites received 18 of the 20 applications; and four of them were incomplete because the citizenship box was not checked. In addition, six of the applications were not transmitted to the local board within the ten-day limit. At the third site, although voter registration activity was recorded on daily tally sheets, all of the data was not transferred to the weekly transmittal forms. This included counts of claimants who had responded that they were already registered to vote but would not sign the declination form. Other data not reported was the full number of mail-in forms that were distributed.

(The WCB replied to the draft report that the daily tally of NVRA activity is accurate and not subject to error as indicated by the auditors.

Auditors' Comment: The process described in the report reflects information provided by WCB employees. In addition, the response does not address the issue of accurately reporting activity for claimants who appear at several hearings on the same day.)

### **Recommendation**

1. Work with the NVRA coordinators at DOL, VA and WCB review agency procedures with staff at each site and correct the noncompliance issues in this audit report.

(Board officials replied that they have no authority to require any review of procedures in other agencies.

### **Recommendation (Cont'd)**

Auditors' Comment: It is unfortunate that Board officials choose to limit their response to the use of the word "require" because they should be concerned with the noncompliance issues that we found during our visits to the agencies. Nevertheless, we revised the recommendation and trust that Board officials will meet with NVRA coordinators and work with them to improve their processing of voter registration forms.)



---

# ACCOUNTING FOR REGISTRATION APPLICATIONS

---

**B**oard regulations require designated agencies to send registration applications and change of address forms to the county election boards at least once a week. The agencies are also supposed to send a transmittal form to the county board that indicates the number of registration applications and change of address forms being sent. The county board processes the registration applications and change of address forms, and records the disposition of each form into seven different categories on the transmittal form. The county board is required to retain one copy of the transmittal form and send the Board a copy.

Referring to entries on the transmittal form, Board personnel manually enter the data into a computer system, discarding the form. For calendar year 2000, the Board's records show that the designated agencies reported transmitting 505,774 registration applications and change of address forms, while the county boards reported processing 500,260 of these registration applications and change of address forms.

There is evidence that the remaining 5,514 registration applications and change of address forms were lost or not processed, and that no procedures were developed for identifying and correcting the discrepancies. However, it cannot be determined definitively whether registration applications are lost or miscounted at the agency level or at the county boards, or whether county board personnel process registration applications without completing the transmittal form properly.

---

## ***Data Accuracy***

**T**he Board gave us a list of each transmittal form that was used for the 5,514 registration applications and change of address forms. To determine the accuracy of the Board's data, we selected for review 282 of the transmittal forms that related to the designated agencies in our audit. As the following table indicates, we could not verify 155 transmittals containing 1,416 unaccounted-for registration applications, either because the

county boards did not retain the transmittals or because the county's copy of the transmittal was blank. We were able to review 127 transmittals that contained 422 unaccounted-for registration applications. Our review showed that the data entry at the Board was correct for 84 of these transmittals, which included 287 unaccounted-for registration applications. However, for the remaining 43 transmittals that contained 135 unaccounted-for registration applications, the data entries were incorrect. If the data had been entered correctly, just 23 of the 135 registration applications would be unaccounted for.

	<b>Number of Transmittals Selected</b>	<b>Number of Unaccounted-for Registration Applications</b>
County did not retain transmittal	65	969
Could not locate transmittal or county portion of transmittal was blank	90	447
Total not located	155	1,416
Correct Data Entry	84	287
Incorrect Data Entry	43	135
Total located	127	422
Grand totals	282	1,838

Two counties, Nassau and Saratoga, retained none of the transmittals received from DMV; Bronx County did not retain any of the transmittals received from either designated agencies or DMV. Therefore, none of these three counties was in compliance with the required transmittal retention schedule published by the New York State Archives and Records Administration. We also noted that the retention schedule does not specifically instruct counties to retain transmittals received from DMV offices.

Subsequent to our request for a listing of all transmittals that showed the differences between the number of registration applications sent by the agency and the number accounted for by the county, the Board changed its computer system to prevent the entry of a transmittal that does not agree. As a result, Board personnel will change the quantity recorded by the agency to agree with the quantity the county board accounted for, thus eliminating any trail that could be used to identify problems at certain agency sites or county board offices. This condition is compounded by the fact that the county boards are not properly reporting all of the registration applications they receive, as described in the following section.

---

---

## ***Lost or Improperly Reported Registration Applications***

To determine whether registration applications were lost or whether the results of applications processed at the county boards were not reported properly to the Board, we selected 19 of the 282 transmittals for review based on differences on the Board Transmittal Deviation Report and a request from DMV, that we limit our selection to two months during 2000 to make it easier for DMV to generate the necessary information. According to data from the Board's system, the 19 transmittals, from several DMV offices, indicated that DMV sent 106 more registration applications to the county boards than were accounted for on the transmittal forms. DMV gave us the customer names for each transmittal. We visited the eight counties to determine whether the customer was registered and whether there was documentation on file for the DMV transaction selected. As the following table indicates, almost 89 percent of the registration applications were processed, we could find no evidence that the county board had processed about 8 percent and for 3 percent there was insufficient information to make such a determination.

<b>Number</b>	<b>Total</b>	<b>Percent</b>
Registration applications on 19 transmittals per DMV	359	
Registration applications processed per county	253	
<b>Difference</b>	106	
Names from DMV for the 19 transmittals	324	100%
Names found with evidence that county had processed registration application	288	88.9
Names with insufficient data to verify that county had processed registration application	9	2.8
Names without evidence that county had processed registration application	27	8.3

As data in the table indicates, even though the county boards lost some of the 106 registration applications, they had processed most of them properly and then reported the results incorrectly to the Board.

In a further effort to determine whether registration applications were lost or unreported, we reviewed several transmittals processed by the five county election boards in New York City, where designated agencies send transmittal forms and registration applications to the Board of Elections in New York City (City Board). The City Board counts the registration applications received and records the number sent to each of the City's county election boards. We reviewed 316 transmittals that county boards submitted to the Board in August 2001; they

contained a total of 4,541 registration applications received by the agencies. The City Board recorded that it received 4,452 registration applications, or 89 (2 percent) less than the agencies had sent. Of this total, three actually came from county boards located outside the City. As of August 14, 2001, the City's county election boards processed transmittals that contained 3,166 registration applications received by the City Board. However, the county boards accounted for just 2,688 (85 percent) of these registration applications, leaving 478 registration applications unaccounted-for. None of these transmittals contained any explanation from either the City Board or the county boards that they were having problems with any of these designated agency sites.

To determine whether forms were lost or simply not reported, we reviewed three transmittals prepared by one of the county boards whose transmittals contained 463 of the 478 unaccounted-for registration applications. We noted that each of the three transmittals included one application that was not accounted for. In each case, we found that, even though county board personnel processed all of the registration applications properly, they incorrectly completed the transmittal form.

The Board has not established procedures for notifying designated agencies that all of the registration applications sent to the county boards were received or accounted for at the county level. Nor does it routinely notify the county boards that they have not accounted for all of the registration applications the agency sent. There are also no standard procedures that county boards should follow to indicate the number of registration applications they have received from an agency site.

In an attempt to reduce the number of registration applications not processed because they are lost, DMV started preparing a "client list" on January 22, 2001. Attached to the transmittal form, this list includes the name and address of each person who requested voter registration from DMV. DMV officials told us they believe that county boards could use the list to contact individuals whose applications were lost. The Board informed the county boards on February 5, 2001, that the list would be prepared, and instructed them to use it to confirm that the same number of registration applications received was the same as noted on the transmittal. However, the instructions did not indicate what county board officials should do if an application was missing. Personnel at five of the eight county boards we

visited were not using the client list as intended, and appeared uninformed as to its purpose.

DMV officials told us that forms get lost because the system is paper-based. They said they believe the number of lost registration applications would decline if they could transfer registration applications electronically. However, for registration purposes, current law requires that original signatures be on file with the county board. Board officials explained that the use of digitized signatures for registration purposes would require the amendment of both Federal and State laws. However, we noted that DMV already captures digitized signatures for license and identification cards.

### **Recommendations**

2. Use electronic filing or scanning of transmittal forms to reduce data entry errors.
3. Restore the function on the State Board of Elections computer system that would make it possible to capture differences on transmittals for future investigation.

(Board officials replied they would not reverse the change in its computer system.

Auditors' Comment: We continue to question the decision to eliminate the part of the process that alerted the Board when all of the voter registration forms are not accounted for. Therefore, the Board needs to re-establish the process because it was one of the few processing controls it could use to monitor the activity at the designated agencies and to provide some assurance that the forms were not lost in transit to the county boards.)

4. Ask New York State Archives and Records Administration to modify its County Retention Schedule during the next update to require that county election boards retain Department of Motor Vehicles transmittals, including client lists, for two years.
5. Modify the transmittal form to include a space where county election board personnel can record the actual number of registration applications received.

## **Recommendations (Cont'd)**

6. Modify instructions to county election boards on the proper use of Department of Motor Vehicles client lists.
7. Develop a process for county notification of designated agencies, through the State Board of Elections, when an application listed on a transmittal form is missing. Require designated agencies to locate missing applications or to notify the customer that the application was lost.
8. Facilitate the identification of lost applications by requiring designated agencies to maintain a list of customer names that support each transmittal.

(Board officials replied that each agency has to determine whether it wants to establish a process for recording client applications that it can use to identify a customer when an application is missing. They also indicated that adding steps to the process usually has a cost that has to be considered. Once again they take the position that they cannot “require” any action by participating agencies.

Auditors' Comment: We understand that cost is a factor when determining whether a process should be implemented, however, the Board needs to assess if cost should prevail over the need to develop a process that allow for establishing that all application forms are properly handled resulting in the registration of all persons who indicate that intention on their application.)

9. Notify county election boards when they do not account for all registration applications on the transmittal form.
10. Work with the State policymakers to evaluate the benefits of using digitized signatures for voter registration purposes.

---

## DEPARTMENT OF MOTOR VEHICLES APPLICATIONS

---

DMV customers may apply for voter registration when they apply for a driver's license, renew a driver's license, or a non-driver identification card. In addition, DMV customers filing an address change can request that the new address be forwarded to the county election board. The top portion of the license application form, which is the license or non-driver identification application, offers the customer the opportunity to indicate whether or not he or she wishes to register to vote. The lower section of this form is the voter registration application, which the customer must complete in addition to indicating on the upper section the intention to register. DMV staff must enter this intention into DMV's computer system. See Exhibit B of this report for a sample of the application form.

When a "Yes" is entered, the system automatically generates the customer information (address, etc.) that has already been entered for the DMV application. This information is then attached to the voter registration portion of the application, which is forwarded to the county board of election. If DMV staff enter "No" in the system, it does not generate a form and the voter registration application is discarded. In either case, DMV personnel complete the transaction by giving the customer a receipt that indicates whether the voter registration application was processed as a "Yes" or "No." When we reviewed DMV's controls related to this practice of processing and transmitting registration applications, we found the processes to be adequate. However, when errors occur, they go undetected by existing controls.

In the 5,349 DMV transactions we reviewed, we found that as many as 103 customers (nearly 2 percent) had requested voter registration but their applications were not sent to the county boards because of a DMV input error. The actual number of customers' requests that could be processed may have been lower because, in some cases, the customer checked "Yes" but did not complete the voter registration section of the form.

During the 2000 General Election, DMV initiated the use of an “800” telephone number that judges and county board personnel could call to verify the status of a prospective voter whose name did not appear on the list of registered voters but who claimed to have completed and submitted a DMV registration application. DMV officials reported receiving 454 calls to this number concerning the cases of 503 individuals on that day. When they reviewed their computer files, they found that DMV staff entered “Yes” in the computer system for 128 of 503 license application transactions. For the remaining 375 transactions, where DMV staff entered “No,” judges requested a review of 261 of the license applications to determine whether the customers had indicated on the top of the license application that they did, in fact, intend to register to vote. DMV officials found that 67 of the 261 customers had indicated they wanted to register but their applications were not forwarded to the county election boards (an error rate of 25.7 percent). DMV could not locate 14 of the 261 license applications in question; and on the remaining 180 applications, either the customer had declined to register or had not responded to the question.

(DMV officials replied to the draft report that these statistics are not a fair representation of their work processes and error rates. However, these are DMV’s statistics based on their review of the calls to the “800” telephone number. It was not intended to reflect the error rate for all of the applications processed by DMV for an entire year. Therefore, DMV’s should not attempt to do so in its response.)

After DMV officials completed their review, they re-distributed copies of the Motor Voter Training Manual (Manual) to each of their offices and provided retraining to DMV staff in the processes and procedures involved in the voter registration program. Both the Manual and the training emphasized that either the “Yes” or “No” box must be checked by the customer. If the box is not checked, staff is supposed to make a specific request that the customer do so, and to verify that the voter registration section is completed appropriately or left blank.

To test DMV’s effectiveness at reducing its voter registration error rate, we reviewed 761 license transactions processed on October 2, 2000, and 608 processed on February 5, 2001 -- for a total of 1,369 transactions at 5 DMV offices on those 2 days. We selected the five DMV offices based on the number of errors ranging from the lowest to the highest. We selected October 2,

2000, because it was just prior to the October 13, 2000 cut-off date to register to vote for the 2000 General Election and February 5, 2001, because that was the date the DMV started to provide county boards with a list of customers that requested voter registration in hopes that errors due to lost registration applications would be reduced.

We reviewed the license application completed by each customer, and compared the voter registration choice noted on the application with the data entered for that customer into DMV's computer system. Of the 761 transactions on October 2, 2000, 79 customers indicated that they wanted to register to vote; but DMV staff had entered a "No" for 14 of the 79 (17.7 percent). For the February 5, 2001, transactions, 55 customers indicated they wanted to register to vote; but DMV staff entered a "No" for 10 (18.2 percent) of these customers. Thus, it appeared that customer intentions had been entered incorrectly for 24 of the 134 transactions where the customer indicated his/her selection. However, because the voter registration section is detached from the DMV license application form and either discarded or sent to the county board, we could not determine whether the customers actually completed the voter registration form or just checked the "Yes" box in error. DMV staff verbally advised us that some customers state that they do not want to register when asked to complete the form. In one of the 24 cases, we noted that the completed voter registration form was still attached to the license application.

We also noted that in 110 of the transactions the customer indicated the wanted to register, and the application was processed properly. We traced 105 of these registration applications to the county boards' registration records to determine whether the boards received them from DMV. The other five customers were residents of counties we did not visit. We found that the county boards received and processed the applications for 104 of the 105 customers we traced, but there was no evidence that the county board received and processed the transaction for the remaining customer.

At 11 DMV offices, selected on the basis of a Board report of the differences between the number of applications transmitted by the sites and the number processed by the counties, we reviewed the transactions processed at these offices on the business day prior to our site visit so that the records would still be available at the site for review. A review of 3,980 license,

license-renewal, and non-driver identification transactions, showed that 367 customers indicated they wanted to register to vote. Although we found that 288 of these customers' registration requests were processed properly, we noted that 5 of them were lost at the DMV office. For 79 applications (21.5 percent), "No" was entered into the computer and the registration applications for that group were not forwarded to the county board. We also found 39 blanks processed as "Yes," and 7 "No" processed as "Yes," an indication that DMV staff may have based their handling of the voter registration process on the presence of a completed registration form instead of a check in the box that appears on the top of the license application.

DMV officials told us that internal audit staff at each site are supposed to review each application to verify that it was processed correctly, including the manner in which the voter registration request was handled. However, based on our testing, this audit function is not detecting errors in data input. The DMV staff we spoke with identified several reasons for entering a "No" even though the customer had checked the "Yes" box. For example, they said a "No" is entered almost automatically because most customers either leave the section blank or check "No." They also explained that some customers check the "Yes" box but do not complete the voter registration section; and when staff question them, they tell the staff verbally that they do not want to register.

DMV officials told us staff are trained in how to offer customers the opportunity to register, as well as how to process the registration application. However, Board officials described DMV's training as focused only on processing; they said it does not teach staff about the consequences to customers if an error is made regarding their voter registration applications. State Board officials told us they believe they should be involved in DMV's training program.

### **Recommendation**

11. Work with the Department of Motor Vehicles to develop controls that will assure management that the customer's voter registration choice is being entered correctly into DMV's computer system. This cooperative effort should include, but not be limited to, Board participation in training DMV staff.

### **Recommendation (Cont'd)**

(Board officials replied to the draft report that DMV no longer does broad-based regional training in upstate New York, but rather does so only as a component of their orientation to new employees. They added the Board will continue to work with DMV to ensure that election representatives are invited to existing training sessions.)



---

## CHANGE OF ADDRESS

---

At designated agencies other than DMV, customers can change their address by completing a voter registration application that is sent to the county election board. DMV customers can use the regular license application form to make a similar request to forward the new address to the county board. A DMV customer who was previously registered within the same county or within the City of New York can use a change of address card, but it will not be sufficient for voter registration if the customer was not previously registered to vote in the election board's jurisdiction, because it does not provide for verification of citizenship. In that case, the election board must then mail a voter registration form to the customer's new address, and the applicant must complete that form and return it.

During the 2000 calendar year, 135,254 of the 500,260 agency-based registration applications processed by all New York State counties were submitted for changes of address. Of this amount, 78,817 were in response to change of address cards forwarded from DMV. Suffolk County officials told us they received several complaints during the 2000 General Election from DMV customers who moved from another county considered themselves registered to vote in Suffolk because they submitted a change of address card to DMV.

Both Board and DMV officials told us that many customers do not understand that a change of address card can be used only by persons who are already registered to vote, and move within the same county or the City of New York. They said customers often complete a DMV change of address card and assume that they are properly registered when they are not.

### **Recommendation**

12. Continue to work with the Department of Motor Vehicles to develop a revised change of address card that will enable customers to register to vote in the same transaction.

### **Recommendation (Cont'd)**

(Board officials replied that DMV has no plans to significantly alter their change of address card because it could not accommodate additional information. DMV's reply agreed with the Board, but also pointed out important improvements to their procedures, specifically a note that if the customer moves to different county he/she must register with that County Board of Elections. In addition, DMV prepares a "Client List Report" for better tracking of voter registration applications.

Auditors' Comment: Despite the addition of a note on the change of address form, the process essentially is the same because the customer must take a separate action of registering with the new county of residence. We reiterate our concern that the process needs to be changed, in light of the comments from Suffolk County, Board and DMV officials during our audit.)

---

## REGISTRATION APPLICATIONS

---

A voter registration applicant is required to provide the street address of his/her residence, date of birth, citizenship status, and signature. Designated agencies are required to verify that registration applications are complete. If any information is missing from the application, the county boards cannot process the registration. More than 10 percent (50,615) of the 500,260 agency-based registration applications processed by the counties during calendar year 2000 were considered incomplete. During our visits to 11 DMV sites, we found that 20 of the 283 applications reviewed did not indicate whether the applicant was a U. S. citizen. In the absence of complete data, the county boards are obligated to inform these applicants that more information must be provided. We found that the eight counties we visited have adequate procedures for notifying customers that the applications filed were incomplete. Officials at these counties made us aware that these incomplete registration applications create additional workload for them. They noted that many of the applicants do not respond to requests for information and may be under the impression that they are registered but, in fact, they are not.

County election boards are instructed to notify the Board about any problems they are having with agency-based registration sites. They are to record descriptions of these problems on the bottom of the transmittal form, along with the number of incomplete registration applications received. However, problems are frequently not mentioned on the transmittal documents. The Board does notify designated agencies about problems that are recorded on the transmittal, but it generally does not notify agencies that applications are incomplete if problems are not noted on the transmittal. In the absence of such notification by the Board, the designated agencies have not taken steps to check that the forms they submit are complete.

We also noted that in two counties, Nassau and Erie, county election board staff are registering applicants even though they have not indicated on their registration forms that they are U. S. citizens. Officials in both counties stated that a customer who signed the affidavit on the registration form, which includes a

statement of citizenship, should not have to check the box as well.

### **Recommendations**

13. Formalize the process of notifying designated agencies when forms are incomplete, and require them to check that only completed forms are being submitted.

(Board officials replied its Coordinator of NVRA operations routinely call sites when they are notified a county board is submitting incomplete applications.

Auditors' Comment: We note that as with other areas that could be improved through the Board properly administering the NVRA program, they choose to focus on "requiring" participating agency personnel to check the forms for completeness, instead of how they will monitor the agencies to improve their performance.)

14. Notify Nassau and Erie county election boards that voter registration applicants should not be processed if the citizenship box is left blank.

(Regarding recommendation 14, Board officials indicated they will not take any further action to notify Erie and Nassau counties that citizenship is required information.

Auditors' Comment: We believe Board officials should reassess their responsibility for establishing, a process that will result in the proper processing of all application forms.)

---

## TIMELY SUBMITTAL OF REGISTRATION APPLICATIONS

---

Generally, State Election Law requires designated agencies to transmit completed voter registration applications and change of address forms to the county election boards within ten days after they are received. State Board regulations require the weekly transmittal of such forms, but those received between the 30th and 25th days before an election must be transmitted in a manner that will assure their receipt by the local board not later than the 20th day before voting takes place.

The election boards of eight counties we visited disclosed that they do not maintain records or routinely notify the Board about sites that are not submitting registration applications within established timeframes. Most of the county officials told us that when they receive a transmittal form with the registration applications, they generally process the applications, recording the results on the transmittal form, then file the applications and transmittal form separately. Therefore, it is difficult to evaluate the timeliness of registration application transmittals. In contrast, Erie County election board officials do file the registration applications along with the transmittal form, a practice that allowed us to determine whether the applications were being submitted within the required timeframe.

We reviewed 65 transmittals submitted to Erie County during September and October 2000. We found that 20 of these contained registration applications -- from the Department of Labor, Department of Health, Department of Social Services, Office of Mental Health, and Office of Mental Retardation and Developmental Disabilities -- that were dated more than 10 days before the date of the transmittal. Despite the State Board's expectation that the counties will describe problems on the transmittal forms, Erie County election board staff had not indicated in any of these 20 transmittals that any of the attached applications had not been received within the required timeframe. Therefore, the State Board was unable to follow up with these sites to correct their behavior, and customers may not have been registered in a timely manner.

### **Recommendation**

15. Remind county election boards to notify the Board when transmittals of registration applications are not submitted on a timely basis.

---

## COMPLAINT DATA

---

Numerous members of the public and some county election officials have complained that a significant number of residents were unable to vote in the 2000 General Election because their registration applications were never transferred from DMV to the county boards. The League of Women Voters (League) reported that they had received telephone calls from hundreds of individuals on election day indicating that the callers had submitted registration applications to DMV but were not allowed to vote.

We contacted the League, the Office of the State Attorney General, and representatives from the eight counties we visited during our audit. League officials told us they not keep a telephone log that day and thus were unable to document the number of complaints received or the nature of the complaints. Board officials told us that the League did not file a complaint with them regarding election day complaints. The Attorney General's review of various issues related to the election process, described in a February 2001 report, involved telephone calls to several counties to gain an understanding of the complaints received during the 2000 General Election. However, officials in the Attorney General's office told us that they were only able to collect unverified, anecdotal information. When we contacted eight county boards and the City Board to determine the number of complaints they received that day, we found that the counties generally handle telephone complaints immediately, and retain no record of interaction with the complainant. In contrast, written complaints are investigated and the individual complainant is notified in writing of the result. Such written complaints are usually not summarized at the county level. However, Suffolk County did maintain records and summarized the number of telephone complaints received on election day, and the nature of the complaints. Suffolk officials told us they received about 200 telephoned complaints regarding the 2000 General Election. They said 40 of these related to applications filed during a voter registration drive, and the remaining 160 were related to agency-based voter registration. Most of the latter group had submitted a change of address card at DMV.

The City Board also collects complaint data on election day that are telephoned in from polling sites. It does not summarize these complaints, but our review showed that most of them pertained to voting equipment. Nassau County officials pointed out that many individuals take their complaints directly to a judge on election day, and do not file them with the county board.

Board officials have established formal processes that individuals can follow if they believe they should be registered but find that they are not. When customers complete a registration application at a designated agency, they are instructed to contact the county board if they are not notified within six weeks that their application has been processed. Customers of designated agencies are also given a number to call at the Board if they experience voter registration problems at the agency. According to Board officials, most of the calls they receive are questions about the registration process rather than complaints. They advised us that their staff complete an intake form for each complaint, then try to resolve the issue -- either with the agency or the county -- and report back to the customer. Customers who are not satisfied with the results of the investigation are told to put their complaints in writing, and to send them to particular addresses, depending on the type of complaint. Board officials told us that telephone complainants do not often follow through with written complaints. They explained that if they receive a complaint about a county election board, they either instruct the complainant to describe the problem in writing or refer the caller to the county board, depending on the nature of the complaint. They added that all written complaints are to be addressed. According to Board officials, most of the complaints they investigate are due to customer errors or misunderstanding, not problems with the agency-based registration system. They told us they rely primarily on county election board officials to identify complaints about agency-based registration sites that represent system problems and forward them to the Board for investigation. Otherwise, they said, the county boards are responsible for handling the complaints.

Instead of submitting a complaint, individuals can also vote on an affidavit ballot or go to a judge and obtain a court order that allows them to vote on a voting machine. If affidavit ballots are used, the individual casts the vote; but that vote will be counted only if it is determined the individual is registered within the

county. However, the design of the affidavit ballot does not allow the voter to claim registration at a designated agency. If a court order is obtained, the individual can vote on the voting machine. When we visited the counties to determine how many court orders had been issued in the 2000 General Election, officials at two of the counties told us no court orders were issued in their jurisdiction due to voter registration because prospective voters whose names were not on the list of registered voters used an affidavit ballot. The other 6 counties reported a total of 1,498 court orders; however, officials at these counties explained that, in general, the judges provide the election board with the court order only, offering no justification for their decision. Officials at 3 of these counties that reported 924 court orders, told us no reason for the judge's actions. In contrast, our review of the 574 court orders issued in the remaining 3 counties revealed the reasons accepted by the judge for 449 of the court orders. Of these, we identified 48 that resulted from complaints related to registration at a DMV site -- 38 from Saratoga County, 9 from Queens County, and 1 from Kings County.

### **Saratoga County**

To determine whether the people who obtained the 38 court orders issued in Saratoga had checked "Yes" on their driver license applications, and to evaluate the manner in which DMV had processed the applications, we reviewed the license or renewal applications filed with DMV. We also met with Saratoga election board officials to determine whether all 38 were registered. The following table shows that a DMV error was the reason 5 of the 38 individuals were not registered; and that 2 were registered but, because of a county error, could not be located on the list of registered voters. One other individual in the group had not registered, but we could not determine whether the error had been attributable to DMV or the county. Customer error was the reason the remaining 30 applicants were not registered.

<b>Error Caused By</b>	<b>Reason for Not Being Registered</b>	<b>Number of Individuals</b>
DMV	Customer checked "Yes," but DMV processed as "No."	3
DMV	Customer checked "Yes" and DMV processed as "Yes;" but sent to different county because DMV used incorrect customer address.	2
<b>Total DMV Errors</b>		<b>5</b>
Customer	Customer left question on DMV application blank.	9
Customer	Customer marked "No" on DMV application.	13
Customer	DMV processed as "Yes;" however, customer was not resident of county at time of transaction.	8
<b>Total Customer Errors</b>		<b>30</b>
County Error	Customer registered, but County could not locate customer's name on the list of registered voters.	2
Cannot determine whether DMV or county error	DMV processed as "Yes," but application lost by either DMV or County.	1
<b>Total</b>		<b>38</b>

It should be noted that 13 of the 30 customer errors occurred when a change of address card was submitted to DMV, to reflect their addresses in Saratoga County. However, because these individuals were not already registered to vote in that county, this transaction was not sufficient to register them.

We also reviewed Saratoga County voter registration records to determine whether the 38 individuals who obtained a court order to vote in the 2000 General Election submitted a voter registration application. We found that 28 of the 38 individuals did register to vote after the election; 2 were registered before the election.

### **Queens County**

For nine individuals in Queens County, a judge called DMV offices on Election Day to determine whether DMV records supported their claims. For eight of the nine, DMV officials verified that the individuals had indicated "Yes" on the DMV application. For one of the eight, DMV staff had not detached the completed voter registration application from the license application. For another, the county board had received the registration application in proper form from DMV, but had not processed it. The ninth person, who was already registered in the county, was denied a court order because she lived at an address that was different from the one that appeared on the list of registered voters.

## **Kings County**

We did not review the validity of the claim from the one customer in Kings County.

Based on our testing, it appears that, even though many complainants had sought relief from a judge and indicate DMV was at fault they were not registered, many of these complaints were unfounded. In addition, our observations indicated that DMV is not always contacted to determine the validity of customers' complaint before they are allowed to vote.

We believe the Board should develop a system for determining why each individual seeks a court order to vote, so that the validity of the complaints can be investigated and problems with agency-based registrations can be identified and corrected.

### **Recommendations**

16. Work with the judges, through the Office of Court Administration, to develop and implement a system for reporting to the county election boards the reasons for each court order issued.

(Board officials responded they are not going to take any action because judges are empowered to make decisions and they are not obliged to "explain" themselves to the Board.)

Auditors' Comment: It is puzzling how Board officials could interpret the recommendation as one where judges are being questioned about their decisions to issue a court order. Our recommendation was intended to have Board officials make use of the information regarding why people who wanted to vote on the voting machine sought a court order. This was viewed as a source of information that the Board could review and use to identify reasons why people who thought they were properly registered were not allowed to vote. Where the reason was related to the agency-based voter registration process the Board could work with agency officials to address the issues.)

### **Recommendations (Cont'd)**

17. Develop a system to capture the reasons for court orders, investigate the validity of the reasons given and take corrective action to preclude them from recurring.

(Regarding recommendation 17, Board officials also indicated they choose not to collect data on the reasons for court orders.

Auditors' Comment: The collection of the reasons for court orders does not oblige judges to explain their decisions. It is, however, a mechanism that the Board could use to improve the NVRA program if it is determined that the agency-based voter registration process is a reason that people are not properly registered.)

---

## MONITORING COMPLIANCE WITH NVRA REQUIREMENTS

---

The New York State Board of Elections (Board) is responsible for issuing instructions and promulgating rules and regulations relating to the administration of the election process. The Board's NVRA functions include coordinating and monitoring the distribution of voter registration forms, promotional materials, and other public information, as well as training agency employees. It is also responsible for adopting necessary rules and regulations, assisting designated agencies, and compiling statistics from the agencies and county election boards, as required by the Federal Election Commission.

We found that the Board has adopted the necessary rules and regulations related to NVRA activities and effectively distributes voter registration forms and promotional material. It also provides training and assistance for agency employees with NVRA-related responsibilities and is effective at compiling registration statistics collected from designated agencies and county boards. These statistics, in turn, are distributed to each agency's NVRA coordinator, enabling the coordinators to monitor their agencies' compliance with NVRA requirements. However, although the Board officials do have a general sense of problems that exist at the agencies and counties, they do not conduct site visits to verify that NVRA rules and regulations are being followed.

The Board's start-up budget for its NVRA Unit included funding for six election specialists, whose primary duty was to review the performance of agency sites and counties. They were to make routine visits, checking for compliance with the Election Law and established procedures and instructions. These six employees were hired in December 1994, and their employment was terminated in March 1995 because, according to Board officials, funding for the positions had been eliminated. State Board officials could not provide written documentation supporting the elimination of this funding, but stated that they understood the positions were removed because the Election Law does not specify that the Board is to monitor the manner in which designated agencies and county boards of elections

comply with NVRA requirements. The Board has made no effort to obtain new funding for similar positions.

To assure themselves that the designated agencies and county boards are complying with NVRA requirements, we believe it is critical that Board officials perform routine monitoring visits to agency and county sites.

### **Recommendation**

18. Conduct routine visits to monitor designated agencies and county boards of election compliance with NVRA requirements. If this cannot be achieved with the Board's current staff resources, it should request funding for the additional resources needed to do such reviews.

(Board officials replied they are not required to make site visits. They added that given the State's fiscal situation, and their current inability to fill vacancies within the agency they believe requests for additional positions would be futile.)

Auditors' Comment: To properly carry out its NVRA functions and to make the program effective it is reasonable to expect that the Board would make site visits to monitor the compliance of designated agencies and county boards of elections. In fact, it is difficult to understand how the Board can report that designated agencies are in compliance in the absence of visits to the various locations. Regarding the need for financial resources, the Board has determined without any effort that a request for additional resources would be futile. We believe the Board is in a better position to identify the skills and the number of employees needed to adequately monitor agencies.)

**LISTING OF THE 15 STATE AGENCIES DESIGNATED TO IMPLEMENT NVRA**

<b>Designated State Agencies</b>	<b>Status of Litigation*</b>
Office of the Advocate for Persons with Disabilities	Settled
Office for the Aging	Still in litigation as of 8/31/01
Commission for the Blind and Visually Impaired	Settled
Department of Health	Still in litigation as of 8/31/01
Department of Motor Vehicles	Not involved in litigation
Department of Social Services	Still in litigation as of 8/31/01
Department of Labor	Not involved in litigation
Office of Alcohol and Substance Abuse Services	Still in litigation as of 8/31/01
Office of Mental Health	Settled
Office of Mental Retardation and Developmental Disabilities	Settled
Department of State	Settled
Office of Vocational and Educational Services for Individuals with Disabilities	Settled
Division of Veterans' Affairs	Settled
Workers' Compensation Board	Settled
Commission on Quality of Care	Settled

\*The Board's 2001 Annual report to the Governor and Legislature indicates settlements have been reached in all but three agencies, but does not specify which ones.

# DMV APPLICATION

MV-44 (6/00)

PAGE 1 OF 2

New York State Department of Motor Vehicles <b>APPLICATION FOR DRIVER LICENSE OR NON-DRIVER ID CARD</b> PLEASE PRINT CLEARLY		Batch File No. Image No. LFC LAM LRN LDP LNO LIS LIN POR PAM PRN PDP
I AM APPLYING FOR A (check any that apply):		
<input type="checkbox"/> Learner Permit <input type="checkbox"/> ID card <input type="checkbox"/> Renewal <input type="checkbox"/> Replacement <input type="checkbox"/> Change <input type="checkbox"/> Change out-of-state license for NYS license		
<b>VOTER REGISTRATION QUESTIONS</b> (Please answer "yes" or "no").		
If you are not registered to vote where you live now, would you like to apply to register, or if you are changing your address, would you like the Board of Elections to be notified?		
NOTE: If you do not check either box, you will be considered to have decided not to register to vote.		<input type="checkbox"/> YES - Complete Voter Registration Application Section <input type="checkbox"/> NO - I Decline to Register/Already Registered! do not want to notify the Board of Elections of my change of address.
<b>NEW YORK STATE ORGAN AND TISSUE DONOR REGISTRY</b>		
<input type="checkbox"/> The NYS Health Department has established a Registry for organ/tissue donors. By checking this box you are authorizing the Department of Motor Vehicles to send your name to the NYS Health Department for inclusion in this Registry. The NYS Health Department will then send you more information on this lifesaving program.		

**NEW YORK STATE VOTER REGISTRATION APPLICATION**

*(Complete only if you want to register to vote or change your address or other information with the Board of Elections.)*

If you register to vote, your completed voter registration application will be sent directly to the Board of Elections. If you decline to register, your decision will remain confidential. You will be notified by your County Board of Elections when your voter registration application has been processed.

Are you a U.S. citizen? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>if you answered NO, do not complete this form.</i>	Check box(es) that apply: <input type="checkbox"/> new registration and enrollment <input type="checkbox"/> party enrollment change <input type="checkbox"/> address change <input type="checkbox"/> name change	Home Telephone Number (optional)
Last year voted	Your Address was (give house number, street, and city)	In county/state      Under the name (if different from your name now)

- Choose a Party** - Check one box only
- REPUBLICAN PARTY
  - DEMOCRATIC PARTY
  - INDEPENDENCE PARTY
  - CONSERVATIVE PARTY
  - LIBERAL PARTY
  - RIGHT TO LIFE PARTY
  - GREEN PARTY
  - WORKING FAMILIES PARTY
  - I DO NOT WISH TO ENROLL IN A PARTY

**Please note:**  
 In order to vote in a primary election, you must be enrolled in a party.

**AFFIDAVIT: I swear or affirm that**

- I am a citizen of the United States
- I will have lived in the county or in the city of New York for at least 30 days before the election.
- This is my signature or mark on the line below.
- The above information is true. I understand that if it is not true I can be convicted and fined up to \$5,000 and/or jailed for up to four years.

↓ Signature or mark ↓

X \_\_\_\_\_ Date

---

## MAJOR CONTRIBUTORS TO THIS REPORT

---

Carmen Maldonado  
Dominick Vanacore  
Thomas A. Nowinski  
Wayne Bolton  
Michael Tagliafierro  
Lon Patterson  
Marticia Madory



State of New York  
**STATE BOARD OF ELECTIONS**

Carol Berman  
Chair  
Neil W. Kelleher  
Vice Chair  
Helena Moses Donohue  
Commissioner  
Evelyn J. Aquila  
Commissioner

40 STEUBEN STREET  
ALBANY, N.Y. 12207-2109  
Phone: 518/474-8100 Fax: 518/486-4068  
URL: <http://www.elections.state.ny.us> E-MAIL: [twilkey@elections.state.ny.us](mailto:twilkey@elections.state.ny.us)

Thomas R. Wilkey  
Executive Director  
Peter S. Kosinski  
Deputy Executive Director

May 7, 2002

Hon. H. Carl McCall  
Comptroller - State of New York  
110 State Street  
Albany, New York 12236

Reference 2001 - S - 24

Dear Comptroller McCall;

It is my pleasure to respond to your draft report on this Board's compliance with the voter registration aspect of the National Voter Registration Act (NVRA). While we appreciate the standard auditing process used by your office to point out areas that you feel need improvement in this aspect of our program, without a proper foundation upon which such opinions can be based, the program itself cannot be fully understood. The NVRA program is one of several here at the State Board, of which we are very proud, and it has, by way of demonstrating its success, posted some very significant statistics. We would be remiss if we did not point out, for example, that at almost 2,000 sites throughout the state;

- during the period of this audit (1/1/2000 - 8/31/2001), 10,222,268 people in the State of New York were offered the opportunity to register to vote while applying for services at offices participating in the agency-based voter registration program.

during this period, of the 834,026 citizens who elected to complete a voter registration form while applying for services at NVRA sites, 546,630 (66%) consisted of new registrations and address changes.

- since the inception of the program on 1/1/95, 46,955,724 people of the State of New York were offered the opportunity to register to vote while applying for services at offices participating in the program.

of the 4,158,663 citizens who elected to complete a voter registration form while applying for services, 2,752,832 (66%) consisted of new registrations and address changes.

\*  
**Note**  
1

\* See State Comptroller's Notes, Appendix C

Thus, one result of this program is that over 94% of the eligible voting age population of New York is now registered to vote.

Our program for collecting these statistics was crafted at the very inception of this program, and further, was the first of its kind in the country. Thus, it has served as a model and been copied in a number of other states. Our training program for participating agencies' personnel was also a component of our initial implementation of the NVRA in New York, and it too, was also the first such initiative in the country. Our own trainer has, on numerous occasions, advised other states on issues concerning curriculum and presentation. All this was accomplished despite the fact that we were originally budgeted for a staff of nine, which, because of budgetary considerations, was reduced to its' present four.

As to the audit report's reference to our lack of formal comments to your preliminary findings, it is imperative that all readers understand that while your audit team was here, from early April through November of 2001, they had, and made use of, opportunities for daily contact with program participants and other staff here at the State Board. They met informally and formally on more than a few occasions, the most important of which was a four-hour meeting on or about October 10, whereat the auditors' preliminary report was examined, line-by-line, and discussed in great detail. Our staff was very frank in all of their meetings, but was particularly candid in this session. In our letter of October 25, we did make several factual corrections, but chose to reserve any further comments until the final draft was presented. This is the juncture at which we find ourselves, today.

\*  
**Note**  
**1**

With specific reference to the recommendations found in the audit report, we note the following:

1. The State Board has no authority to *require* any review of procedures in other agencies. To imply that such authority is vested in the State Board, and that we have been somehow lax in exercising that authority, leaves an inaccurate perception of how the program is intended to work.
2. The scanning of transmittals would require the creation of specialized programming and the implementation of optical character recognition capabilities, since the goal intended is to have the system do all of the data entry, and not simply preserve a transmittal, in toto. In that information other than statistics is required to be provided on the transmittal, manual intervention is still part of the process. Numerous transmittals contain comments from county boards, which require follow-up activities, thus serving as an integral part of our oversight of this program. Additionally, many transmittals are incorrectly prepared by the site and these problems must be resolved before data can be entered.
3. We are not satisfied that the value of reversing the processing requirements of our existing system has been established, however we intend to continue to evaluate our current capture and reporting categories, and the dynamics of this recommendation.
4. Updating the State's record retention schedule for clarification purposes can be accommodated, however the issue of transmittal retention was addressed with the implementation of the NVRA - see item 90048 of the existing schedule - which requires the retention for 2 years, of 'transmittals received from agency -based voter registration sites'.

\*  
**Note**  
**2**

\*  
**Note**  
**3**

\* See State Comptroller's Notes, Appendix C

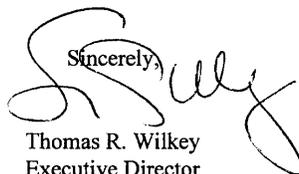
of calls would have been placed to the League of Women Voters on election day, but that none were referred to us. Some of these callers could have had options identified for them, and in some cases, resolution on election day might even have been possible, which would likely have enabled a great number of those persons to vote. Had information on these callers been made available to us after election day, we could have tracked the complainants through DMV, to determine what their actual problem(s) might have been, and identified issues that would help ensure that problems, if any, were corrected. This has been done routinely, over the years, with any and all such calls our Board, or any county board, receives. As a long-time member of the League, it is important for me to note that we have always enjoyed a solid working relationship with the League, at both the State and local levels. I would hope that if the League intends to continue as a resource for voters who choose to file complaints, they use the scenario described above as a learning process. In the future, the League should refer all such complaints to us immediately, so that resolution can be immediate where possible, resulting in complainants being allowed to vote on election day. Matters which require more in-depth resolution will, as always, be handled in a timely manner.

\*  
**Note**  
4

It is also important to understand that everyone in the complete circle of NVRA participation, has responsibilities to the process of voter registration, and that includes potential voters, as well. Voting is not just a right, but also a privilege, as well as a responsibility. Great pains are taken in the overall process of voter registration, to ensure that forms are processed, notifications sent, and problems resolved, all prior to each election day. All applicants are provided with an informational brochure, wherein they are advised to follow up with their respective county boards, if they believe there is a problem with their application or their status as a voter. Without that interest, issues unfortunately, remain unresolved, and are evidenced only if the applicant appears at a polling place. Without that voter interest, the circle is broken, and the overall success of any registration program can be compromised, as a result.

I would be remiss if I did not, in this forum, thank all of the county board commissioners, their respective staffs, and the many people at DMV and other participating agency offices throughout the state, who take steps daily, to bring our citizens into the realm of the electoral process. Their collective steps bring applicants, voters, and democracy together, to ensure that the process of participating in government at its' most basic level, flourishes.

On behalf of the Commissioners and staff of the State Board of Elections, I thank you for the opportunity to comment on your audit report.

Sincerely,  


Thomas R. Wilkey  
Executive Director  
New York State Board of Elections

\* See State Comptroller's Notes, Appendix C

CUSTOMER RECEIPT

VR DECLINED  
\*\*\*\*\*  
7100700710 TEST  
0.00

YOU HAVE DECLINED TO REGISTER TO VOTE/ALREADY  
REGISTERED/OR DO NOT WANT TO NOTIFY THE BOARD  
OF ELECTIONS OF ANY CHANGE.

R25153 36667 085726 45 7100700710

INTERIM LICENSE  
520308836

\*\*\*\*\*

\*\*\*\*\*DRIVER LICENSE\*\*\*\*\*  
09/02/01  
NONE  
R25153 36667 085726 45  
[REDACTED]  
103 SHERBROOKE RD  
DEWITT NY 13214  
BR F D  
5 8  
09/02/45 0.00  
TEST DOCUMENT  
0.00  
R25153 36667 085726 45  
EXPIRES: 01/05/98

TEST 0.00 DOCUMENT  
520308836

CUSTOMER RECEIPT

VR REQUESTED  
\*\*\*

7100700710 TEST  
0.00

WE ARE SENDING YOUR VOTER REGISTRATION APPLICATION  
TO YOUR COUNTY BOARD OF ELECTIONS. CONTACT YOUR  
BOARD OF ELECTIONS IF YOU DO NOT HEAR FROM THEM  
WITHIN 60 DAYS.

R25153 36667 085726 45 7100700710

09/02/45F

INTERIM LICENSE

520308836

103 SHERBROOKE RD  
DEWITT NY 13214

\*\*\*

\*\*\*DRIVER LICENSE\*\*\*\*

09/02/01  
NONE

R25153 36667 085726 45  
103 SHERBROOKE RD  
DEWITT NY 13214

103 SHERBROOKE RD  
DEWITT NY 13214  
BR F D  
5 8

09/02/45 0.00  
TEST DOCUMENT

R25153 36667 085726 45  
EXPIRES: 01/05/98

520308836

TEST DOCUMENT  
0.00  
520308836

Congratulations on taking the first step toward registering to vote!

Answers to questions you may have...

***How do I know my registration has been received and approved?***

You are not registered until your form is approved by the local board of elections. Once registered, your local board of elections, not the agency where you registered, will mail you a card showing your poll location, election district and whether your site is accessible to the disabled. You will be notified if the local board of elections requires more information to determine residency or if you do not qualify at this time. You should contact your local board of elections if you do not receive notification within six weeks or before the election. To obtain the number for your local board of elections or further information call **1-800-FOR-VOTE**.

***Is my registration permanent, and when do I need to re-register?***

You need to re-register only if you move your residence address.

***When are the elections and do I need to show identification when voting?***

Before each election in which you are eligible to vote, you will receive a notice by mail telling you the date and time of the election and your polling site location. **No identification is required when you go to vote.** However, you must sign the poll register at the inspectors' table when you enter the polling place.

***What if my name does not appear in the poll book when I go to vote?***

If your name does not appear in the poll book you may vote by paper ballot. To vote by affidavit, you will sign an oath on a special paper ballot envelope stating your eligibility and mark a paper ballot and seal it in the envelope. After validation of your eligibility by the board of elections your ballot will be counted.

***When are polls open?***

Polls are open *general election day* from 6:00 a.m. to 9:00 p.m. On primary day in New York City, Nassau, Suffolk, Westchester, Rockland, Orange and Erie counties polls are open from 6:00 a.m. to 9 p.m. In all other counties polls open from 12 noon to 9:00 p.m. on primary day.

***Are there people ready to assist me at the polls?***

Yes. Election Inspectors at the polling place are there to assist you and will answer any questions you may have or offer instruction upon request.

***How do I cast my vote at the polls?***

To cast your vote simply move the lever above or next to the name of each candidate for whom you wish to vote. Leave the lever down. You may select candidates from any line or column in which their names appear. Other than a write-in, your vote may be changed at any time before you open the curtain. Simply return the lever to the neutral position and press another lever.

***Is my vote secret?***

Yes. Your vote is secret. The number assigned to each voter by the inspectors is not traceable and is used only as a record of how many people have signed in and voted.

***What shall I do if I am away on election day or if I am ill or disabled?***

If you will be away from your county on election day, or unable to appear at the polls due to illness, you may vote by mail by requesting an absentee ballot application from your county board of elections up to one week prior to the election, or one day before if requested in person. If you are permanently ill or disabled you have the right to receive an absentee ballot for each subsequent election without further application. Simply contact your county board of elections and ask for an application to be placed on the permanent absentee list.

**For more information  
contact your county board of elections or call 1-  
800-FOR-VOTE**

NVRA - 02 03/00



**NASSAU COUNTY BOARD OF ELECTIONS**  
400 COUNTY SEAT DRIVE - MINEOLA, NEW YORK 11501-4800  
(516) 571-2411

**John A. DeGrace**  
Republican Commissioner

**Barbara Patton**  
Democratic Commissioner

Annette C. Preston  
Coordinator, Operations  
State of New York  
State Board of Elections  
40 Steuben Street  
Albany, NY 12207-2109

April 19, 2002

Dear Ms. Preston:

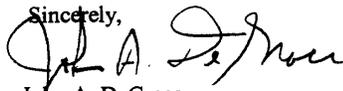
This letter is in response to your April 2, 2002 communication regarding the report compiled by the State Comptroller's office.

**Page 11:** In the report the Nassau County Board of Elections is cited for not retaining transmittals received from DMV. Transmittals in our county are retained for a minimum of three years. They are recorded daily and filed by month and kept in a cabinet for easy access.

**Page 21:** Regarding the processing of registration forms that do not have the citizenship box marked, the board accepts the sworn affidavit that asks the registrant to affirm that he/she is a United States citizen. The Federal registration form we receive does not provide for a check-off box to confirm citizenship. It also relies on the registrant signing the affirmation statement regarding citizenship. (see attached federal registration form)

**Page 26:** The Nassau County Board of Elections was also cited for not filing registration complaints that are taken directly to the judge. However, it fails to mention that the initial contact is with this board for information regarding the voter's status, which is then followed by judicial review.

Thank you for this opportunity to address issues in this draft report. Please feel free to contact us if you require further information.

Sincerely,  
  
John A. DeGrace  
Republican Commissioner

  
Barbara Patton  
Democratic Commissioner

\*  
Note  
5

\*  
Note  
6

\*  
Note  
7

\* See State Comptroller's Notes, Appendix C



STATE OF NEW YORK  
DEPARTMENT OF MOTOR VEHICLES  
6 EMPIRE STATE PLAZA  
ALBANY, NY 12228

RAYMOND P. MARTINEZ  
Commissioner

GREGORY J. KLINE  
Deputy Commissioner  
For Administration

May 1, 2002

Ms. Carmen Maldonado  
Audit Director  
Office of the State Comptroller  
Division of Management Audit and State Financial Services  
123 Williams Street  
21<sup>st</sup> Floor  
New York, New York 10038-3804

Dear Ms. Maldonado:

Thank you for the opportunity to review the DMV component of the draft OSC report on Compliance with the National Voter Registration Act - Registration Process (2001-S-24).

We appreciate the Report's positive conclusion that DMV was in compliance with the NVRA. As you are aware, we have worked closely with the New York State Board of Elections (NYSBOE) and the NVRA Unit since before January 1995 on this process. The changes and continual improvements we have made are designed to ensure that both the customer and our staff understand our forms, the process and the consequence if errors are made either by mistake or confusion. The staff is aware that every vote counts and if a mistake is made it could cost someone the election. Based on the very high volume of voter registrations processed with an overall low error rate we think that our staff is highly effective in meeting the requirements of the law.

Two very important improvements to our procedure have occurred since the last election:

- 1) The address change card now includes the following statement - "if you are moving to a different county, you MUST register with that County Board of Elections using a form provided by the County Board of Elections".

- 2) To allow for better tracking of voter registration applications, a new report “Client List Report” has been created. This report includes the names and addresses of all customers requesting to register to vote. DMV as well as BOE staffs indicate the application was present and received by placing a check mark on the check off line in front of each name. This listing and other DMV reports are still forwarded to the proper boards along with the application. The NYSBOE notified the boards of our hope that their staffs use this report. If there are any discrepancies they should be directed to the DMV office, NVRA or other designated contacts of DMV.

We acknowledge that human errors have been made, but the audit staffs that are responsible for verifying the daily work catch many processing errors. Customers are notified of the error and asked to complete and forward a voter registration form directly to their county Board of Elections. We know customers frequently indicate, “yes” to the voter registration but do not complete the application. DMV staff has been directed to ask the customer to initial and change their “yes” to a “no” if their intent was not to register to vote.

It is our experience that customers do not always understand the process at DMV. Many individuals use our voter registration application without processing a DMV transaction and forward this application to their County Board of Elections believing they have registered to vote through the DMV. If the Board cannot read the signature and address, it is impossible for the Board to contact this individual.

In the near future, offices will be reminded of the existing procedures. Staff is required to:

- Review data on the voter registration application in the same manner as the DMV portion of the license application.
- Initial a change if the customer changes their mind in their response to voter registration question.
- Ask the customer to complete the voter registration if they have not done so, or it will be considered a “no”.

Some of the statistical representations in the report do not provide a fair representation of DMV’s work processes and error rates. For example, page 17 of the draft report reads: “DMV officials found that 67 of the 261 customers had indicated they wanted to register but their applications were not forwarded to the county election boards (an error rate of 25.7 percent).” The 261 applications in question do not represent a valid basis against which to calculate an error rate. In fact, DMV’s “error rate” is more appropriately defined as 67 errors out of the 402,566 ‘Yes’ applications processed by DMV for 10/1999 through 9/2000, one year prior to the

\*  
Note  
8

\* See State Comptroller's Notes, Appendix C

2000 election. This results in an error rate of approximately .0166 percent, or approximately one error for every 6,000 applications. We feel strongly that error rates should be properly stated in the report so that DMV's efficient and effective front-line employees are not maligned.

It is very important to our process that we hear of problems or errors so we can make changes and corrections before the customer arrives to vote. We are willing, as always, to cooperate with NYBOE, NVRA Unit and others involved in this law to make it successful.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. J. Kline', with a long horizontal flourish extending to the right.

Gregory J. Kline



STATE OF NEW YORK  
**DEPARTMENT OF LABOR**  
Office of the Inspector General  
Governor W. Averell Harriman State Office Building Campus  
Albany, New York 12240

May 6, 2002

Mr. Carman Maldonado  
Audit Director  
Office of the State Comptroller  
Division of Management Audit & State Financial Services  
123 William Street - 21<sup>st</sup> Floor  
New York, New York 10038

Dear Mr. Maldonado:

This is in response to your request for the Department of Labor's (Department) response to the report section pertaining to the testing of the Department's operations contained in your audit of the program administered by the New York State Board of Elections for compliance with the National Voter Registration Act of 1993.

The Department is proud of the overwhelming success of the program to date. From our initial efforts in 1995 to build the capability to offer voter registration to all of our customers, where we implemented the system from scratch, to today, where each and every Department customer is offered the opportunity to register to vote when they visit one of our offices, a review of the facts will reveal that the Department of Labor has done tremendous work on a huge undertaking. The minor and isolated instances cited by this audit report do not relate to the ability of customers to register; instead, they concern the lack of a computer system capable of compiling the numbers of those who were invited to register. Presumably, the records of those who did register are compiled by the appropriate Boards of Elections. In addition, the Department has reviewed the Agency-Based Voter Registration Form, NVRA-03 with the local offices to ensure compliance with reporting of declinations and has also reordered all required promotional materials which will be posted at all locations.

We at the Department of Labor are proud of our implementation of the NVRA. The fact that the auditors, after an exhaustive review, can cite only a minor issue concerning the tracking of those who choose to not register is an unqualified endorsement

\*  
**Note**  
**1**

\* See State Comptroller's Notes, Appendix C

of our efforts to implement the most important aspect of the law, that is, to offer customers the opportunity to register to vote.

If you have any questions, please contact me at (518) 457-9016.

Sincerely,

Handwritten signature of Karen C. Stackrow in cursive.

Karen C. Stackrow  
Director of Internal Audit

cc: L. Angello



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
**DIVISION OF VETERANS' AFFAIRS**

5 Empire State Plaza  
Suite 2836  
Albany, NY 12223-1551

George P. Basher  
Director

May 7, 2002

Carmen Maldonado  
Office of the State Comptroller  
Division of Management Audit and State Financial Services  
123 William Street, 21<sup>st</sup> Floor  
New York, New York 10038-3804

RE: Comptroller's Audit of Agency NVRA Activity

Dear Mr. Maldonado:

I am in receipt of your letter dated April 22, 2002 regarding the above captioned issue. Your letter contained an excerpt from your office's audit as it pertains to the New York State Division of Veterans' Affairs (Division).

The majority of the information you provided in your "audit" concerns voter registration activity that occurred prior to April 6, 2001. As I am sure you are aware, the Division was involved in litigation with the Federal government concerning our agency's implementation of the NVRA. The Division's position with respect to the NVRA was that it was not applicable to the agency. Accordingly the Division's position was that it had little or no obligation under the NVRA. The litigation was settled by consent decree so ordered by United States District Court Judge Fredric Block, a copy received by this office March 30, 2001.

Under the terms of the agreement the Division was to commence voter registration in a limited fashion as prescribed by the consent decree. The Federal government agreed, as part of the agreement, that the Division would not be held to a numerical standard. Since the Division asserted in its defense that the provisions of the NVRA were inapplicable, it would have been contradictory to perform NVRA functions while asserting such a defense. The parties agreed that the Division had no obligation to endeavor a "recapture" subsequent to settlement.

All of this information was provided to representatives of your office, who have apparently chosen not to include same.

\*  
**Note**  
9

\* See State Comptroller's Notes, Appendix C

Carmen Maldonado  
May 7, 2002  
Page 2

Additionally, your report states in pertinent part "In addition, although site personnel were asking customers whether they wanted to register, they were not making agency based registration applications available. Nor were they collecting completed applications and transmitting them to the county board as required by law." This sounds as though you are providing a legal interpretation as to the applicability of NVRA to the Division during the same time period these issues were being litigated.

I respectfully point out that the consent decree entered into by the United States and the Division modified the applicability of the NVRA to the Division, expressly departing from the strict adherence and numerical based performance that you seem to feel was applicable. Is it your office's position that the Division is not entitled to take a legal position or defend itself in a lawsuit?

\*  
**Note**  
**9**

With respect to your assertion that "In addition, none of the three sites uses the VA's computer system, which would indicate the total number of customers and the registration intentions of each applicant, to create the transmittal forms. VA officials told us their computer system is currently not able to provide this type of data. As a result, there is less assurance that all of their customers are given the opportunity to register."

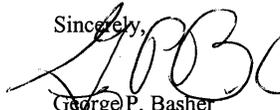
This statement is misleading and for the most part false. Representatives of your office were informed that the Division is in the process of upgrading its computer system, both software and hardware applications. At the time of your audit the majority of information entered into computers throughout our offices was being harvested manually. The Division has not included the "registration intention" of each applicant on its intake forms or software, nor is there any plan to include such information in the future.

\*  
**Note**  
**10**

Our intake forms and software do have a prompt to perform voter registration, but it does so without indicating the registration intentions of each applicant.

As your representatives were informed, the consent decree entered into in settlement of the United States lawsuit expressly provides that the Division not be held to numerical standards in reporting NVRA activity. This agreement was reached after taking into account the nature of our agency's clientele (often repeat) as well as the limited applicability of the statute to the services the Division provides.

Sincerely,



George P. Basher  
Director

GPB/WB/mq

\* See State Comptroller's Notes, Appendix C



**ROBERT R. SNASHALL**  
CHAIRMAN

STATE OF NEW YORK  
WORKERS' COMPENSATION BOARD  
20 PARK STREET  
ALBANY, N.Y. 12207

(518) 473-8900  
Facsimile: (518) 486-6411



**GLENN WARREN**  
DEPUTY EXECUTIVE DIRECTOR

May 2, 2002

Carmen Maldonado  
Audit Director  
Office of the State Comptroller  
123 William Street, 21<sup>st</sup> Floor  
New York, NY 10038-3804

Dear Carmen Maldonado:

This letter is written in response to the Draft Report of the State Comptroller's Office regarding their audit of the Workers' Compensation Board administration of the National Voter Registration Act of 1993.

The draft report from the Office of the State Comptroller mentions four points of non-compliance:

1. Inaccurate completion of the weekly transmittal forms sent to the BOE.
2. Incomplete recording of the data on the voter registration forms.
3. Inaccurate and incomplete reporting of data to State Board of Elections.
4. Submission of new applications to SBOE after the ten-day limit.

We have reviewed our procedures in light of your report and have already taken steps to bring these matters into compliance as described below.

- I. The voter registration daily Tally Sheets show the number of claimants who actually appear on that day, not the number of hearings scheduled. If a claimant does not appear for a hearing they are not counted. The daily tally sheets accurately show the voter registration activity.

\*  
*Note*  
1

\*  
*Note*  
11

THIS AGENCY EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION

\* See State Comptroller's Notes, Appendix C

- From the above description, we believe the discussion in the draft report by the Auditor from the Office of the State Comptroller is not reflective of the actual process used by our customer service staff in offering voter registration to claimants as they arrive for a hearing.

II.

- Site coordinators have received retraining and have been advised that all voter registration forms must be inspected to make sure all items are filled out.
- Additional personnel have been put in place solely designated to offering voter registration to all claimants.

III.

- Procedures have been reviewed with individual site coordinators and customer service staff to assure compliance.
- A supervisor checks all weekly transmittal forms before sending them to the BOE.
- The Agency NVRA Coordinator as well as the Downstate and Upstate Coordinators receive a copy of the weekly transmittal forms sent to the Board of Elections for their review.

IV.

- Customer service staff, as well as their supervisors and managers, have been reminded that sending the transmittal form on a weekly basis is required by the National Voter Registration Act of 1993.
- All data received in the weekly transmittal form is being placed in a worksheet to easily review timely reporting to the Board of Elections.

Carmen Maldonado

3

We believe that the above steps will assure that the WCB will be brought into compliance with NVRA requirements.

Very truly yours,

A handwritten signature in black ink, appearing to read "Glenn Warren".

Glenn Warren  
Deputy Executive Director

---

---

## ***State Comptroller's Notes***

---

---

1. We acknowledge that the statistics collected by the Board regarding the agency-based voter registration activity indicates that the program has resulted in providing the opportunity to vote to many, as shown by the table on page 2 of our report. However, the audit results show that management at both the Board and at the participating agencies should take corrective action to improve the NVRA program. A response to the preliminary findings is requested so that we can make the report as factually correct as possible. Such response would serve to minimize the number of agency comments that are used to explain a process or respond to questions that were asked by the auditors during the field work. In addition, responding to the preliminary findings would not have precluded the Board from stating in its response to the draft that the NVRA program is a success.

The Department of Labor and the Division of Veterans' Affairs replied that they did not agree with the audit conclusion that they were not in compliance with the NVRA regulations reviewed. They did not indicate that any corrective action was taken or is planned to address the areas that the audit concluded are in need of improvement. The WCB reply indicated that they have changed certain procedures to bring them into compliance. DMV officials replied that it has taken action to improve its process for handling voter registration forms.

While we acknowledge that the NVRA program has provided many people the opportunity to register to vote at participating agencies, our audit does identify areas in need of improvement, even at agencies that consider themselves to be in compliance with NVRA.

2. Board officials chose to limit their response to the use of the word "require" in one of the 18 recommendations in the report. In doing so, it did not address the audit results that show the participating agencies were not in compliance with all of the NVRA requirements reviewed during our visits to agency sites. We note that the Board is the "coordinating agency for the implementation of NVRA" and the "functions include coordinating and monitoring the distribution of voter registration forms, promotional materials and other public information as well as training employees. The Board is also responsible for adopting necessary rules and regulations, assisting participating agencies and compiling statistics from agencies and county election boards, as required by the Federal Election Commission." During our fieldwork, we found several instances where the participating agencies were not in compliance with NVRA requirements that could be corrected by the Board carrying out its responsibility of "assisting participating agencies" and "adopting necessary rules and regulations." Board officials should focus on improving the program through the mechanisms available such as, providing assistance to agencies and training. In addition, we revised the recommendation and trust that Board officials will work with NVRA coordinators from the participating agencies to correct those areas where they were not in compliance.

3. We disagree with the Board's reply to the draft report that there is no value in reversing the change they made during our audit fieldwork to eliminate the reporting of differences between the number of voter registration forms processed by the participating agency and then by the local board. During our fieldwork, we obtained registration data prepared monthly and on a month-to-date, year-to-date, and life-to-date basis from the Board. These reports were generated from data that Board staff input from transmittal forms. The computer had an edit that indicated that the county data exceeded the agency data, but not the other way around. After our questions about this process, Board staff added a new edit so that when a number does not agree keypunch is notified. They told us that they will change the agency number to the county's, on the assumption that the county should know what they processed. As a result, the Board eliminated the one control they had built into the process that provided some assurance that voter registration forms were not lost or unaccounted between the agency and the county board.

Furthermore, NYRA regulations Section 6213.5, Duties of the State Board of Elections, state that the State Board shall compile the statistics contained in the transmittal documents as they are received from the local boards. The State may request that each participating agency submit data on the volume of transactions processed by each agency for comparison to transmittal statistics. Based on these requirements, the Board should reverse its action to inactivate the edit that reported differences.

4. The Board should work with the League of Women Voters (League) to determine what is the best process for addressing complaints the League receives on election days. This may result in the Board resolving some of the cases when it is notified of the issues in a timely manner and, as it states in the response, "would have enabled a great number of those persons to vote."
5. Our records show that on June 11, 2001 we visited with Nassau County officials in Mineola, New York. During the meeting, we were told that copies of DMV transmittals were not maintained. We were also told that upon receipt of the DMV transmittals, they are date stamped, and counted. The applications are then separated from the completed transmittal form, scanned into the database, and the client list is reconciled with the applications. If there are any differences, a new application is mailed instructing the individual to complete the form and return it. The applications are grouped and filed according to the scan date and batch number.
6. The response does not address the audit results. The registration form has a question about citizenship that has to be checked by the applicant. In addition, the response did not include a copy of the Federal registration form as indicated.

7. The report does not cite Nassau County for not filing registration complaints that are taken directly to the judge. The information presented in the report demonstrates that there is no uniform process for recording complaints and, as a result, data is not available for use by the Board or the counties if they want to determine what are the causes of the complaints. Such information may help them to develop a corrective action plan.
8. DMV officials replied to the draft report that these statistics are not a fair representation of their work processes and error rates. However, these are DMV's statistics based on their review of the calls to the "800" telephone number. It was not intended to reflect the error rate for all of the applications processed by DMV for an entire year. Therefore, DMV should not attempt to do so in its response.
9. It is difficult to understand the Division's opposition to recording the registration intention on a form and on the system because in the absence of any record, there is less assurance the applicant was provided an opportunity to register to vote. The fact that the information is collected does not automatically result in the counting of NVRA activity. Other agencies whose customers are of a "repeat" nature do provide forms that record the registration intent. In addition, the audit report reflects the information provided to the auditors and it is not our interpretation.
10. The report states the conditions that were present when we visited the sites. The computer system was not being used to keep track of the number of customers who declined to register to vote. In addition, the Division has stated that it will not keep information on the "registration intention" of each applicant.
11. WCB officials replied to the draft report that the daily tally of NVRA activity is accurate and not subject to error as indicated by the auditors. The process described in the report reflects information provided by WCB employees. In addition, the response does not address the issue of accurately reporting activity for claimants who appear at several hearings on the same day.